

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF NEW YORK

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AMIL DINSIO,

Plaintiff,

DECISION AND ORDER

05-CV-6159L

v.

THE FEDERAL BUREAU OF INVESTIGATION,  
et al.,

Defendants.

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Plaintiff, Amil Dinsio, commenced this action pursuant to the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, after the Department of Justice failed to respond to his satisfaction to two FOIA requests that he filed.

Plaintiff has now filed two motions (Dkts. ##3, 5) seeking affirmative relief from the Court in anticipation of what he believes will be defenses raised by the defendants in response to his complaint. Specifically, plaintiff requests that the Court deem his complaint filed as of a particular date, pursuant to the so-called “prisoner mailbox rule.” He also asks that the Court declare his February 2005 FOIA request “a proper request” under that Act.


Plaintiff’s motions are denied. The relief that plaintiff seeks is premature. To date, defendants have filed only an answer to the complaint. Defendants have not moved for relief based on the timing

of plaintiff's complaint, exhaustion of administrative remedies, or on the merits of their FOIA responses. Those issues, therefore, are not before the Court yet and, arguably, may never be.

Plaintiff may be entitled to rely on the "prisoner mailbox rule," and his FOIA request may be "proper" under the Act, but those are not issues ripe for decision at this stage of the proceedings. Unless and until the defendants move for relief based on the filing date of the complaint or the sufficiency of their responses to plaintiff's FOIA requests, the Court should not make any findings in this respect. If defendants move for relief from plaintiff's complaint later in this action, these issues can be addressed at that time.

Plaintiff's motions (Dkts. ##3, 5) are denied.

IT IS SO ORDERED.



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DAVID G. LARIMER  
United States District Judge

Dated: Rochester, New York  
July 12, 2005.